

**BOISE, THURSDAY, AUGUST 21, 2008, AT 9:00 A.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 32563**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>GARY DON WALTHALL,</b>	)
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Cheri C. Copsey, District Judge.

Molly J. Huskey, State Appellate Public Defender; Diane M. Walker, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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On August 19, 2005, Gary Don Walthall was stopped by a Boise police officer for failure to signal. A record check revealed that Walthall was a sex offender who had not registered in Idaho since 2003. Walthall's duty to register derived from a 1982 conviction for assault to commit rape in California. Walthall had also been convicted of failure to register as a sex offender in California in 2001.

Walthall was charged with failure to notify authorities of a change of address within five days. Walthall attempted to enter a guilty plea. However, because he would not admit certain elements of the offense, the district court allowed the state to plead an alternative charge of failure to register annually. Walthall did not object to the amendment. Walthall then admitted he failed to comply with the annual registration requirements. The district court accepted Walthall's guilty plea and entered a judgment of conviction.

Sixteen months later, Walthall filed a pro se motion to withdraw his guilty plea and requested a hearing and counsel. Counsel was appointed, and the district court held a hearing on Walthall's motion to withdraw his guilty plea. The district court denied Walthall's motion. Walthall appeals.

**BOISE, THURSDAY, AUGUST 21, 2008, AT 10:30 A.M.- \*VACATED\***

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 34324**

<b>KATHLEEN ANN BLANC,</b>	)
	)
<b>Petitioner-Appellant,</b>	)
	)
<b>v.</b>	)
	)
<b>STATE OF IDAHO,</b>	)
	)
<b>Respondent.</b>	)
_____	)

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Jerome County. Hon. John K. Butler, District Judge.

Nevin, Benjamin, McKay & Bartlett; Dennis A. Benjamin, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Ann Wilkinson, Deputy Attorney General, Boise, for respondent.

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Kathleen A. Blanc entered a guilty plea to one count of felony injury to a child, Idaho Code § 18-1501(1). The district court imposed a unified ten-year sentence, with a minimum period of confinement of two years, but retained jurisdiction twice consecutively. After the second period of retained jurisdiction, the district court suspended Blanc's sentence and placed her on probation. The state filed a report of probation violations against Blanc and the district court found Blanc in violation of her probation, revoked probation, and ordered execution of the underlying sentence. Blanc filed a *pro se* petition for post-conviction relief alleging several errors in her guilty plea, sentencing, and the jurisdictional review hearings. She also requested appointment of counsel pursuant to I.C. § 19-4904.

The district court issued a notice of intent to dismiss because the petition was not timely filed. Instead of filing a response to the notice of intent to dismiss, Blanc filed a second petition for post-conviction relief. The district court stayed all proceedings on the second petition pending resolution of Blanc's direct appeal from the revocation of her probation. The court then dismissed Blanc's first petition for post-conviction relief. The court also denied Blanc's motion for appointment of counsel because the late filing made her claims frivolous according to I.C. § 19-852(b)(3). Blanc appeals, alleging that the district court erred by denying her motion for appointment of counsel because her petition alleged facts raising the possibility of a valid claim that was not time-barred.

**BOISE, THURSDAY, AUGUST 21, 2008, AT 1:30 P.M.**

**IN THE COURT OF APPEALS OF THE STATE OF IDAHO**

**Docket No. 32989**

<b>STATE OF IDAHO,</b>	)
	)
<b>Plaintiff-Respondent,</b>	)
	)
<b>v.</b>	)
	)
<b>ANTONIO VASQUEZ ROLON,</b>	)
	)
<b>Defendant-Appellant.</b>	)
_____	)

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Hon. Michael E. Wetherell, District Judge.

Nevin, Benjamin, McKay & Bartlett, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Kenneth K. Jorgensen, Deputy Attorney General, Boise, for respondent.

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Between October 2004 and January 2005, Boise police conducted twelve controlled buys of heroin and cocaine from a drug distribution operation. The officers eventually identified one of the “runners” as Carlos Ortiz. Following his arrest on December 8, Ortiz agreed to provide information to authorities concerning other individuals involved in the conspiracy. Officers eventually identified several participants of the scheme, including Antonio Vasquez Rolon.

Rolon and other members of the conspiracy were arrested and charged with conspiring to traffic in more than twenty-eight grams of heroin, Idaho Code § 37-2732B(a)(6)(C), and conspiring to traffic in more than twenty-eight grams of cocaine, I.C. § 37-2732B(a)(2)(A). Specifically, the state alleged that Rolon directed the conspiracy members in the selling and delivery of the drugs, and that he had delivered or arranged for the delivery of the drugs to the conspiracy members from Utah where he resided.

At trial, in addition to the evidence gathered from the controlled buys, the arrests of several of the conspiracy members and the subsequent searches of their vehicles, and the searches of the residences utilized by the group, the state also presented phone records of calls between the participants, including evidence of numerous calls from Rolon to his co-conspirators, as well as Ortiz’s testimony concerning his participation and his interaction with Rolon in the course of the conspiracy. Ortiz specifically testified that he had been told Rolon was the “boss” of the operation and source of the drugs.

A jury found Rolon guilty of both counts, and he now appeals.